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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/900,129 | 07/06/2001 | William W. Jacobsen | 022182-56 | 6519 |

24239 7590 12/04/2002

MOORE & VAN ALLEN, PLLC
2200 W MAIN STREET
SUITE 800
DURHAM, NC 27705

EXAMINER

RAJGURU, UMAKANT K

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1711

DATE MAILED: 12/04/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on Jul 30, 2002 (paper no 6) and Aug 12, 2002 (paper no 7)

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 13-19 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 13-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

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1. A response (Paper No. 6) and a supplemental amendment (Paper No. 7) have been filed on July 30, 2002 and August 12, 2002 (resp.).
2. Claims 13-19 are being examined.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 13-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Georlette et al (USP 4,380,522) in view of Bergquist et al (USP 5,194,461).
5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Georlette et al (USP 4,380,522) in view of Bergquist et al (USP 5,194,461) as applied to claims 13 and 16 above, and further in view of Coates et al (USP 5,932,357).

These rejections are incorporated here by reference from prior Office Action, Paper No. 3.

6. Applicant's arguments filed July 30, 2002 (Paper No. 6) have been fully considered but they are not persuasive.

AKK Applicant's statement that "Georgettes~~/~~ discloses of use of modified polyethylene" is true but not persuasive because (a) the polyethylene of Georlette reads on (claimed) thermoplastic and (b) the applicant has not shown critically of using only unmodified polyethylene. Additionally, it is noted that Georlette in col. 4, lines 13-16, does suggest the use of unmodified polyolefins.

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Applicant's comments on Bergquist are not persuasive. Bergquist is a secondary reference, relied upon solely for its teaching of length of fibers and how such length helps if used in primary reference.

Applicant has amended claim 13 to encompass "a wood fiber filler". Nonetheless the rejection stands as before since Georlette in col. 4, lines 1-6 does suggest the use of fibers from wood.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation has been set forth in earlier Office Action.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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In response to applicant's argument that Coates is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Coates was faced with the problem of enhancing adhesion which was the problem faced by Georlette.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication from the examiner should be directed to U.K. Rajguru whose telephone number is 703-308-3224. The examiner can generally be reached on Monday-Friday 9:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703-308-2462. The fax phone

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numbers for the organization where this application is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-0661.



U.K. Rajguru/dh
November 26, 2002

James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700